

ATTORNEY DOCKET NO: DONNP-001M
REGISTRATION NO.: 2009440
MARK: MOCEAN

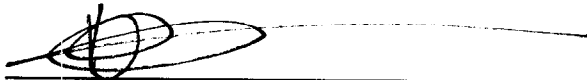
TTAB

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on October 13, 2005


(Signature)

Kimberly Carlsen

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1. Certificate of Mailing;
2. Transmittal (in triplicate);
3. Respondents' Answer to Petition for Cancellation (in triplicate);
4. Copy of Proof of Service to Petitioner; and
5. A Postcard To Acknowledge Receipt



10-17-2005

U.S. Patent & TMOc/TM Mail Rcpt Dt. #64

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October 13, 2005

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Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Crossport Mocean v. Donn L. Pierson et al.
Registration No.: 2009440
Cancellation No.: 92044780
Our Reference: DONNP-001M

Dear Sir/Madame:

Enclosed for filing are the following:

1. Certificate of Mailing;
2. Transmittal (in triplicate);
3. Respondents' Answer to Petition for Cancellation (in triplicate);
4. Copy of Proof of Service to Petitioner; and
5. A Postcard To Acknowledge Receipt

Please charge any additional cost to our Deposit Account Number 19-4330. This letter is enclosed herewith in triplicate.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Date: October 13, 2005

By: 

Kit M. Stetina, Reg. No. 29,445
Counsel for Respondent

Customer No.: 007663
Encls.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,009,440

Crossport Mocean,)	Cancellation No. 92044780
)	
Petitioner,)	
)	
vs.)	
)	
Donn L. Pierson and Kimberly L.)	
Pierson,)	
)	
<u>Respondent.</u>		

RESPONDENTS' ANSWER TO PETITION FOR CANCELLATION

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P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

Respondents, Donn L. Pierson and Kimberly L. Pierson (hereinafter "Respondents"), by and through their attorneys Stetina, Brunda, Garred & Brucker, hereby respond to the Petition for Cancellation as follows: Respondents deny each and every allegation in the Petition for Cancellation that is not expressly admitted below. Any factual allegation admitted below is admitted only as to the specific admitted facts, as to any purported conclusions, characterizations, implications, or speculations that arguably follow from the admitted facts. Respondents deny that Petitioner is entitled to the relief requested or any other.

ANSWER

1. Respondents are informed and believe and upon such basis admit that the "Petitioner Information" alleged in Crossport Mocean's Petition is correct.

2. Respondents admit that the "Registration Information" alleged in Crossport Mocean's Petition for Respondents' registered mark "Mocean" (hereinafter "the Mark"), including its Registration No., Registration date, Registrants, Class, First Use, First Use in Commerce, and Goods/Services for which Respondents' mark is used, are correctly identified. Respondents deny that the Mark is "Subject to Cancellation." Respondents also deny the allegations set forth in Petitioner's "Grounds for Cancellation." Respondents deny that they abandoned the Mark. Respondents further deny that they obtained registration for the Mark fraudulently.

3. Respondents deny the allegations set forth in Petitioner's "Narrative." Specifically, Respondents deny that they obtained the Mark fraudulently. Respondents also deny that they do not or have not used the Mark. Respondents further deny that they made any false representations to the Patent and Trademark Office concerning their use of the Mark during the prosecution of the Mark's application for registration. Respondents deny that Petitioners have continuously used the Mark with Respondents' full knowledge.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Petitioner's Petition for Cancellation fails to state any grounds upon which relief may be granted.

Second Affirmative Defense

2. Petitioner is barred, in whole or in part, from relief by the Doctrine of Waiver.

Third Affirmative Defense

3. Petitioner is barred, in whole or in part, from relief by the Doctrine of Estoppel.

Fourth Affirmative Defense

4. Petitioner is barred, in whole or in part, from relief by the Doctrine of Laches.

Fifth Affirmative Defense

5. Petitioner is barred, in whole or in part, from relief by the Doctrine of Unclean Hands.

Sixth Affirmative Defense

6. Petitioner's Petition for Cancellation is barred, in whole or in part, by the applicable statute of limitations.

Seventh Affirmative Defense

7. Respondents allege that their conduct was at all times lawful, privileged, justified, reasonable, and in good faith, based upon the relevant facts known at the time they acted.

Eighth Affirmative Defense

8. Petitioner's claims are barred, in whole or in part, to the extent that there exists no likelihood of confusion between the marks at issue.

Ninth Affirmative Defense

9. Petitioner lacks standing, capacity, and authority to bring the claims alleged.

Tenth Affirmative Defense

10. Petitioner is barred by the Doctrine of Acquiescence.

Eleventh Affirmative Defense

11. Petitioner's claims are barred insofar as Petitioner has abandoned its trademark.

Twelfth Affirmative Defense

12. Petitioner has failed to adequately maintain, police or enforce any trademark or proprietary rights it may once have had in its alleged pleaded mark.

Thirteenth Affirmative Defense

13. Petitioner's claims are barred insofar as Petitioner does not possess any rights in its asserted trademark in the United States.

Fourteenth Affirmative Defense

14. Respondents allege that Petitioner's claims are barred, in whole or in part, based on the fact that the sole proximate and legal cause of the claims alleged was by Defendant's own actions and/or that of third parties.

Fifteenth Affirmative Defense

15. Respondents allege that Petitioner's equitable claims under the Petition are barred, in whole or in part, based on the fact that Petitioner has an adequate remedy at law.

Sixteenth Affirmative Defense

16. Respondents allege that Petitioner's claims under the Petition are barred, in whole or in part, by the doctrines of collateral estoppel and res judicata.

Seventeenth Affirmative Defense

17. Respondents have made no false or misleading statements or representations of fact regarding the pleaded mark.

Eighteenth Affirmative Defense

18. Respondents use of the pleaded mark in the United States does not constitute abandonment.

Nineteenth Affirmative Defense

19. Respondents hereby give notice that they may rely on any other defenses that may become available or appear proper during discovery, and hereby reserve their right to amend this Answer to assert any such defenses.

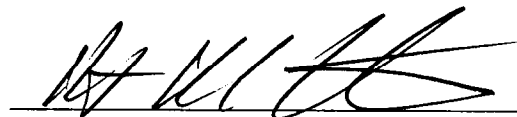
WHEREFORE, Respondents pray that this cancellation proceeding be dismissed, that the subject registration be maintained, and for such other and further relief as may be appropriate.

This Request is filed herewith in triplicate along with the Proof of Service by mail to Petitioner's counsel.

Respectfully submitted,

Dated: October 13, 2005

By:



Kit M. Stetina, Reg. No. 29,445
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, California 92656
Tel: (949)855-1246
Fax: (949)855-6371
Counsel for Respondent


PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, CALIFORNIA 92656. ON **October 13, 2005**, THE **ATTACHED RESPONDENTS' Answer to petition for cancellation** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Christa D. Perez, Esq.
FRIEDMAN PETERSON STROFFE & GERARD
19800 Mac Arthur Blvd., Suite 1100
Irvine, CA 92612

Executed on **October 13, 2005** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.



Kimberly Carlsen